

Application Serial No. 10/589,437
Response filed September 3, 2010
Response to final Office Action mailed August 3, 2010

REMARKS

Claims 1-29 are pending in this application. Reconsideration is requested based on the following remarks.

Response to Arguments:

The Applicants appreciate the consideration given to their arguments. The final Office Action asserts in section 8, at the bottom of page 8, that:

In the remark section, page 9-10, Applicant argued that the applied prior art references of [PCT/JP03/15675] to Hirukawa and [US 20050094125 A1] to Arai, can be overcome by Japanese Patent Application No. 2004-045102, which was filed on February 20, 2004. However, Applicant cannot rely upon the foreign priority papers to overcome this rejection because a translation of said papers has not been made of record in accordance with 37 CFR 1.55. See MPEP § 201.15. Therefore, the previous rejection has been maintained.

A certified translation of Japanese Patent Application No. 2004-045102 accompanies this response. Further consideration is thus requested.

Claim Rejections - 35 U.S.C. § 102:

Claims 1-5, 16, 18, 22, and 24-28 were rejected under 35 U.S.C. § 102(a) as anticipated by PCT/JP03/15675 to Hirukawa (hereinafter "Hirukawa"). The rejection is traversed. Reconsideration is earnestly solicited.

As discussed during the telephone conference with the Examiner of January 12, 2010, a PCT application, such as PCT/JP03/15675 to Hirukawa, is not published on its priority date. Consequently, Hirukawa is not a publication as of its priority date. PCT/JP03/15675 to Hirukawa, rather, was published as WO/2004/053955 in the Japanese language on June 24, 2004.

The subject application, on the other hand, claims priority to Japanese Patent Application No. 2004-045102, which was filed on February 20, 2004. A certified translation of Japanese Patent Application No. 2004-045102 accompanies this response.

Hirukawa, consequently, was published after the priority date of the subject application, and so Hirukawa is not a valid reference against the subject application under 35 U.S.C. § 102(a).

US Patent Application Publication No. 2006/0164615, moreover, which is used in the

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final Office Action as a translation of PCT/JP03/15675 to Hirukawa, was published July 27, 2006, which is also after the priority date of the subject application, and so US Patent Application Publication No. 2006/0164615 is not a valid reference against the subject application under 35 U.S.C. § 102(a), either.

Since the subject application has been shown to have a priority date that is earlier than the publication date of Hirukawa, there is believed to be no need to discuss differences between the claimed invention and Hirukawa. Withdrawal of the rejection of claims 1-5, 16, 18, 22, and 24-28 is earnestly solicited.

Claims 9-15, 17, 20, and 29:

Claims 9-15, 17, 20, and 29 were rejected under 35 U.S.C. § 102(e) as anticipated by U.S. Patent Application Publication No. 2005/0094125 to Arai (hereinafter "Arai"). The rejection is traversed. Reconsideration is earnestly solicited.

The subject application, as discussed above, claims priority to Japanese Patent Application No. 2004-045102, which was filed on February 20, 2004. Arai, on the other hand, was filed in the United States on October 26, 2004. The subject application thus predates Arai, and Arai is not a valid reference against the subject application under 35 U.S.C. § 102(e).

Since the subject application has been shown to have a priority date that is earlier than the date of Arai, there is believed to be no need to discuss differences between the claimed invention and Arai. Withdrawal of the rejection of claims 9-15, 17, 20, and 29 is earnestly solicited.

Allowable Subject Matter:

The Applicant acknowledges with appreciation the allowance of claims 6-8, 19, 21, and 23.

Conclusion:

Accordingly, in view of the reasons given above, it is submitted that all of claims 1-29 are allowable over the cited references. Allowance of all claims 1-29 and of this entire application is therefore respectfully requested.

If there are any formal matters remaining after this response, the Examiner is invited to telephone the undersigned to attend to these matters.

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If there are any additional fees associated with filing this Amendment, please charge them to our Deposit Account No. 19-3935.

Respectfully submitted,

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Attachment: Certified Translation of Japanese Patent Application No. 2004-045102